

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS
)
THIS DOCUMENT RELATES TO) Hon. Patti B. Saris
01-CV-12257-PBS AND 01-CV-339) Chief Mag. Judge Marianne B. Bowler
)

**DEFENDANTS' MOTION TO COMPEL THIRD PARTY UNITED HEALTHCARE TO
PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION
PURSUANT TO SUBPOENA**

Defendants to the Amended Master Consolidated Class Action Complaint respectfully move this Court for an order compelling third party health plan United Healthcare (“United”) to produce documents and witnesses for deposition pursuant to the subpoena served upon United on April 9, 2004 and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the accompanying memorandum of law, declaration of Erik Haas and exhibits thereto.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for United regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Dated: October 12, 2005

Respectfully submitted,

/s/ Andrew D. Schau

Andrew D. Schau (admitted *pro hac vice*)
Erik Haas (admitted *pro hac vice*)
Adeel A. Mangi (admitted *pro hac vice*)
PATTERSON, BELKNAP, WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036-6710
(212) 336-2000

Attorneys for Defendants Johnson & Johnson, Johnson & Johnson Health Care Systems, Inc., Centocor Inc. Ortho Biotech Products L.P., Janssen Pharmaceutica L.P., Ortho Neutrogena Inc., Ortho McNeil Pharmaceutical Inc. and McNeil-PPC on behalf of all defendants to the Amended Master Consolidated Class Action Complaint

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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In Re: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE)
PRICE LITIGATION) MDL No. 1456
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Master File No. 01-CV-12257-PBS
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THIS DOCUMENT RELATES TO:)
THE AMENDED MASTER) Judge Patti B. Saris
CONSOLIDATED CLASS ACTION) Chief Mag. Judge Marianne B. Bowler
)
)

**[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO COMPEL THIRD
PARTY UNITED HEALTHCARE TO PRODUCE DOCUMENTS AND WITNESSES
FOR DEPOSITION PURSUANT TO SUBPOENA**

Having considered each of the parties' and third party's submissions with respect to Defendants' Motion to Compel Third Party United Healthcare To Produce Documents And Witnesses For Deposition Pursuant To Subpoena, the Court hereby grants the motion.

It is hereby ordered that within twenty days of the entry of this order, United Healthcare complete production to defendants of all documents responsive to defendants' subpoena. It is further ordered that the Plan produce witnesses for deposition within thirty days of the date of this order.

Dated: _____

Hon. Marianne B. Bowler
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on October 12, 2005, a true and correct copy of the forgoing DEFENDANTS' MOTION TO COMPEL THIRD PARTY UNITED HEALTHCARE TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION PURSUANT TO SUBPOENA was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties. I further certify that on October 12, 2005, a copy was served on counsel for third party United Healthcare via Federal Express.

/s/ Andrew Schau
Andrew Schau